

**Thomas Tortez, Jr.
Tribal Council Chairman, Torres
Martinez Desert Cahuilla**

**Hearing on
Federal and State Efforts to Restore the
Salton Sea
Before the Oceans, Water and Wildlife
Subcommittee of the
House Natural Resources Committee**

September 24, 2020

Chairman and Ranking Member, I sincerely appreciate the opportunity to testify today. I am the Tribal Council Chairman of the Torres Martinez Desert Cahuilla (Tribe) and a director on the Salton Sea Authority (SSA).

I want to begin by thanking Congressman Ruiz (D-Calif.) and Congressman Vargas (D-Calif.) for their hard work to place this issue squarely before the Committee today. The Tribe views this hearing as a very important beginning of a more robust Congressional effort to drive federal action at the Salton Sea.

The Tribe's reservation is comprised of 24,000 acres in and around the Salton Sea. This is our aboriginal homeland since time immemorial and it must be protected for current and future generations. The Tribe is a member of SSA, a Joint Powers Authority established under California law in 1993 to protect public health, the environment and economic vitality of the Salton Sea and the surrounding region. In addition to the Tribe, SSA is comprised of Coachella Valley Water District, Imperial County, Imperial Irrigation District, and Riverside County.

In keeping with its mission, SSA develops Salton Sea restoration plans,

secures funding and manages restoration projects, and advocates for state and federal policies to ensure the protection of this critical resource and region.

The persistent, collaborative work of SSA, its member agencies and the state of California has resulted in significant recent progress at the Salton Sea. For example, this state-local collaboration led to our recent success in securing \$49 million in new state funding to develop both New River and North Lake projects. And, through the hard work of SSA member agency Imperial Irrigation District (IID) and the California Natural Resources Agency (CNRA), easements have been finalized that clear the way for the 3,770 Species Conservation Habitat project, a major 3,770-acre project at the Sea's south end. This major project will break ground this summer.

Nearly half of the Torres Martinez Reservation (11,000 acres) is submerged by the Sea; the Tribe has great interest in uses of that land, and stabilization of its sediments when the shoreline of the Sea retreats due to declining inflows of water. In addition, the Sea's resources are of critical importance to the Torres Martinez Desert Cahuilla Indians.

In 2006, the tribe began developing a Wetlands Project to create economic opportunities, reduce dust emissions on barren lands, and to provide habitat for fish and birds where tribal lands are located. The Wetlands Project was awarded a Proposition 84 grant from California Department of Water Resources' Salton Sea Financial Assistance Program to create up to 85 acres of habitat on land on the reservation. The project has three main features: water treatment, fresh and brackish habitat wetlands, and surface stabilization of sediments. First the subsurface vertical flow

wetland treats Whitewater River flows for sediments, nutrients, and pesticide/herbicide residues. The treated water is then introduced into freshwater habitat wetland, and finally blended with Salton Sea water to create an additional shallow saline habitat for shorebirds. Water to fill the wetlands is pumped from groundwater and the nearby Whitewater River, which is infiltrated by agricultural drainage canals and runoff from the western portion of the Coachella Valley.

As the tribe completed phases of the Wetlands, it became apparent that an additional water is needed to supply the constructed ponds and for restoration of desert landscape at the southern edge of the property. Notwithstanding, the rise in dust emissions as the Salton Sea recedes causes additional tribal waters to restore desert vegetation adjacent to the Wetlands. Restoring desert vegetation traps toxic soil particles and further reduces dust emissions for surrounding communities.

Mitigation, such as the Wetlands project helps to protect public health by reducing PM10 dust emissions, respiratory illnesses in the area and produces native plants for other restoration efforts around the Sea, as well as develops fisheries and habitat for wildlife that can contribute to economic and social well-being of tribal members.

Several endangered, threatened and sensitive species, such as desert pupfish, eared grebe, and black skimmer inhabit the area and would benefit from restoring habitat that has been lost as the Sea recedes. Furthermore, windblown dust from the exposed playa increases as mitigation flows for agricultural to urban water transfers under the Quantification Settlement Act ended in December 2017, accelerating the Sea's decline. The area has some of the worst air pollution in the country and some

of the highest rates of asthma-related emergency room visits for children in California.

The Torres Martinez Wetlands also meets the intent of the August 2016, DOI and the State of California Natural Resources Agency Memorandum of Understanding in which DOI committed to pursue \$30 million in funding for operation and maintenance costs of State-led habitat and dust suppression projects and State-managed monitoring projects.

In 2015, the Torres Martinez and the Salton Sea Authority developed a grant with the California's Department of Water Resource to bring complete the Wetlands Project. Funding from the Bureau of Indian Affairs repaired the well on the property, increase the depth of ponds to create suitable fish habitat. Funding from the U.S Environmental Protection Agency made it was possible to eradicate the spread of Tamarisk in upland areas and the removal of the dense vegetation in existing dry ponds.

Lastly, the Torres Martinez Wetlands project is part of the State of California's Salton Sea Management Program, Phase 1 10-Year Plan (10-year Plan). The Torres Martinez Desert Cahuilla continue to be actively working with the Salton Sea Authority to revitalize the Salton Sea in consultation and cooperation with state and federal governments.

In this testimony, the Tribe advances some key points principally focused on the issue of federal engagement at the Salton Sea.

First, SSA describes the federal interests and responsibilities at the Salton Sea which justify a more significant federal role. The Trump administration FY2021 budget for

the Interior Department acknowledges this federal role, estimating an approximate \$332.5 million federal legal obligation to mitigate the impacts of Salton Sea playa exposure on federal lands just related to the Clean Air Act. Interior further estimates \$4.375 million in annual operations and maintenance costs associated with this mitigation.

Second, the Tribe describes the key state-level mandates local stakeholders put into place in order to reverse seventeen years of state inaction. These mandates galvanized the significant recent progress made to address Salton Sea concerns. They provide a roadmap to Congress regarding steps it should take to reverse federal inaction.

Third, SSA strongly recommends that Congress adopt a similar approach for the federal government to mobilize long-overdue federal action to support state and local Salton Sea management activities.

It has been brought to the Tribe's attention that our federal partners have declined the Committee's invitation to testify today to discuss the critical issue of federal responsibility at the Salton Sea. This failure to appear is unfortunately reflective of the federal government's long-standing abdication of its responsibilities at the Salton Sea.

While disappointing, the lack of federal agency participation in this hearing does not undermine its value for the Committee. Our state partners will describe the significant progress that has been made in recent years at the Salton Sea. And below we will share our perspective on the path that led to this progress. This path should be replicated by Congress on the federal level to overcome the inaction of our federal partners.

We cannot throw up our hands and accept this federal indifference to the crisis at the Salton Sea. The federal government is a key partner at the Salton Sea, as a federal land manager, as a tribal trustee and as a caretaker of a natural resource of national significance.

The time is long overdue for meaningful federal action at the Salton Sea to address all of these concerns.

I. Federal Interests and Responsibility at the Salton Sea Are Significant and Justify an Increased Federal Role

The Salton Sea, California's largest lake, occupies approximately 370 square miles in Imperial and Riverside counties in southeastern California. The Sea is sustained primarily by agricultural drainage flows from roughly 600,000 acres of farmland. Since the early 2000s, inflows to the Salton Sea have been significantly affected by voluntary water conservation efforts.

The ecological significance of the Salton Sea is due largely to its habitat value for over 400 species of birds, including threatened and endangered species. According to the Bureau of Reclamation, the Sea's "combination of avian biodiversity and importance as breeding habitat is unsurpassed." The Salton Sea is also a major stopover on the 5,000-mile-long Pacific Flyway. Because over 90 percent of California's wetlands have been lost to development, maintaining the bird habitat provided by the Salton Sea is crucial to the survival of migratory birds in the region.

Congress has repeatedly affirmed a strong federal interest in the Salton Sea, requiring Department of the Interior

(Interior) to develop management plans in 1992, 1998, and 2007. Interior owns roughly 40 percent of the Salton Sea, including the 35,000-acre Sonny Bono National Wildlife Refuge at the Sea's south end. Interior interests also include tribal trust responsibilities associated with the Torres Martinez Tribe, which occupies 2,000 acres at the Sea's north end.

While Interior has the most significant federal role at the Salton Sea, other federal agencies also play important roles or have important interests impacted by Salton Sea management. The Army Corps of Engineers is the lead permitting authority for Salton Sea management projects and has been directed by Congress to develop Sea restoration projects. The Department of Agriculture (USDA) has developed conservation pilot projects in order to protect the viability of agricultural production in the Salton Sea region. In the 2018 Farm Bill, the Tribe advocated for and secured major new financial resources and authority for USDA to expand this work.

The Department of Defense manages the 357 square mile Chocolate Mountain Aerial Gunnery Range located directly to the east of the Salton Sea, which is one of the most heavily used and important aerial gunnery ranges in the nation used by the Marines and Navy.

Further, the Salton Sea and surrounding region possesses an abundant supply of renewable energy and is a key national energy resource. The Bureau of Land Management's Desert Renewable Energy Conservation Plan estimates renewable energy generation potential at 10,000 megawatts in the Salton Sea region. The Salton Sea itself possesses more geothermal capacity than anywhere else in the nation. The Known Geothermal

Resource Area (KGRA) in and around the Salton Sea is estimated to contain up to 2,000 megawatts of untapped geothermal energy. The KGRA already produces 544 megawatts of geothermal, providing reliable, base load power from facilities at the Salton Sea to energy consumers. The Salton Sea geothermal resource is also now receiving substantial investment for the sustainable extraction of lithium from geothermal brine.

II. Recent State Progress Is Driven by an Enforceable State Order and Provides a Replicable Model for Federal Action

The Committee last examined Salton Sea concerns over two decades ago on October 3, 1997 in a hearing entitled "On Degradation of the Salton Sea Ecosystem." A key theme in the hearing was the need for local, state and federal officials to step up and take responsibility to manage the unfolding public health, environmental and economic crisis at the Salton Sea. In the words of Senator Feinstein (D-Calif.) who testified at that hearing: "Because the Salton Sea is an environmental and economic resource of regional and national significance, I strongly believe that the federal, state and local governments all must share in the responsibility for saving the Sea and in paying for its restoration."

The Tribe agreed with that statement and worked to meet that responsibility.

Witnesses at that hearing called for strikingly similar management activities as those which are now finally in progress at the Salton Sea thanks to state and local leadership. This includes the Species Conservation Habitat (SCH) project at the Sea's south end, which will break ground this year and will provide roughly 3,770 acres of shallow water habitat. It also includes the North Lake project, which will

provide critical deep-water habitat and economic revitalization at the Sea's north end. Concerns were also raised during the 1997 hearing regarding the severe pollution affecting the New River, which flows into the Salton Sea. In its most recent budget, the state of California has dedicated \$29 million to the New River Improvement Project to begin to address this public health and environmental hazard. Overall, the state of California has committed roughly \$300 million to these Salton Sea efforts.

It is important to note that state and SSA member agencies recently took several critical actions to advance these projects and Governor Newsom allocated significant financial resources to this work in the thick of the current COVID-19 public health and economic crisis. This reflects the depth state and local commitment to the Salton Sea.

As you consider how best to ensure that federal partners rise to the state and local level of commitment at the Salton Sea, the Committee and Congress can learn from SSA's experience in driving change at the state level to accomplish similar change at the federal level.

Overall, the federal government — a major Salton Sea landowner itself — has failed to protect key federal interests at the Salton Sea and to fulfill its tribal trust responsibilities to the Torres Martinez Tribe. This abdication of responsibility resulted in dire public health, economic and environmental consequences. The region has the highest rate of asthma in California and the highest rate of childhood emergency room admissions for asthma and respiratory concerns. Dust emissions from a declining Salton Sea threaten the viability of area agriculture, a major economic driver in the region. Declining inflows has roughly doubled salinity levels in the Salton Sea

since this Committee's 1997 hearing, imperiling key migratory bird habitat along the Pacific Flyway. A 2014 study by the Pacific Institute estimated that the public health, ecological and economic costs of inaction at the Salton Sea at \$70 billion.

How did we reverse this dismal history of state inaction at the Salton Sea? We adopted firm commitments and mandates.

In 2014, SSA member agency IID petitioned the State Water Resources Control Board (SWRCB) to order the state of California to take action. That process led to the development of California's Salton Sea Management Program (SSMP) Phase 1: 10-Year Plan, which calls for the management of 30,000 acres of exposed Salton Sea playa. In 2017, the SWRCB adopted State Water Board Order 2017-0134 establishing specific annual acreage management goals based on the SSMP and dictated that the state develop a long-term management plan.

III. Congress Should Adopt Similar Mandates to Drive Federal Action

State and local Salton Sea partners have long worked to draw federal partners into a more active role at the Salton Sea. These efforts have focused on non-binding memorandum of understanding agreements and non-mandatory directives from Congress. The state of California and SSA have also worked with Congress to enact several laws to provide the federal government with both the authority and funding to undertake a more active role at the Salton Sea. As described below, federal partners have not fulfilled their commitments under such agreements, nor have they used the legislative tools we have worked with Congress to provide. As with

our experience at the state-level, a more directive approach from Congress is needed to mobilize action at the federal level.

In 2016, Interior and the CNRA negotiated a Memorandum of Understanding (MOU) wherein Interior pledged to become a full and active partner at the Salton Sea. In the agreement, Interior acknowledged its legal duties to follow federal environmental laws, pledged to develop funding partnerships with other federal agencies already engaged at the Salton Sea like USDA, and pledged to perform a federal funding analysis that would identify ways to meet the “anticipated financial need to reach [SSMP] acreage goals and creative means to meet them.” Finally, Interior pledged to dedicate a senior level official and convene a Salton Sea Working Group tasked with ensuring MOU implementation and expediting permitting processes at the Sea. Interior failed to fulfill *any* of these commitments.

In 2017, Senators Feinstein and Harris and Congressmen Ruiz and Vargas together wrote to the Secretary of the Interior to urge implementation of the MOU. No action was undertaken by Interior in response to this request. Also, in 2017, CNRA Secretary Laird wrote to then-Interior Deputy Secretary Bernhardt to urge MOU implementation. No action was undertaken by Interior in response to this request. Senator Feinstein then included direction in the FY18 Energy and Water Appropriations Act to urge Interior to implement the MOU, to provide a Salton Sea budget request to Congress, and to report to Congress on its MOU progress on a biannual basis. No action was undertaken by Interior in response to this request.

In 2018, SSA worked with Senator Feinstein to draft legislation for the 2018

Farm Bill to provide both the authority and funding to USDA to expand existing conservation projects at the Salton Sea. USDA funding is among the most assured in the federal government, as it comes from mandatory funding accounts, not subject to the uncertainties of the federal appropriations process. This effort included increasing mandatory conservation program funding by \$2.6 billion, and provided USDA with key, flexible authorities to expand existing USDA pilot projects directly on the Salton Sea playa.

In 2019, Senators Feinstein and Harris and Congressmen Ruiz and Vargas worked to secure the support of USDA and Interior to target this new Farm Bill funding to match state of California funding at the Salton Sea. SSA strongly supported that effort. Although USDA has administratively created over 70 conservation initiatives on its own accord to address conservation concerns quite similar to those at the Salton Sea, the administration declined to advance that effort.

The inability to motivate a strong federal response with these less prescriptive methods since 2016 shows that a more directive approach is sorely needed. SSA’s experience in recent years at the state level gives us confidence that stronger direction from Congress is the key to mobilizing a meaningful federal Salton Sea response.

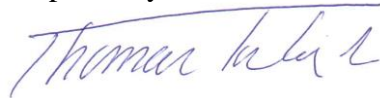
Tragically, the heavy Salton Sea-related air pollution burden borne by our communities left many especially vulnerable to COVID-19 health impacts. And the economic impact of COVID-19 on future state budgets is likely to be significant and could exacerbate these problems. In view of these challenges, the Tribe urges Congress

to expeditiously mobilize additional federal resources to diminish these burdens, and to expedite the critical public health and environmental work at the Salton Sea. In the Tribe's view, the federal government has both a clear legal and moral obligation to step up and match state and local efforts to better conserve and manage the Salton Sea.

Torres Martinez Desert Cahuilla and SSA look forward to working with the Committee to ensure the federal government meets these critical obligations.

Thank you for this opportunity to present this testimony to the Committee today.

Respectfully,

A handwritten signature in blue ink, appearing to read "Thomas Torte".

Thomas Torte, Tribal Council Chairman
Torres Martinez Desert Cahuilla Indians
Salton Sea Authority Director